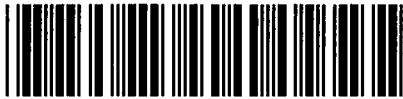




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APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE
ELECTRIC POWER COMPANY FOR § OF
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS

**WALMART INC.'S
INITIAL POST-HEARING BRIEF**

JUNE 17, 2021

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Walmart Inc. (“Walmart”) submits this Initial Post-Hearing Brief. In compliance with State Office of Administrative Hearings (“SOAH”) Order Nos. 4 and 13, Walmart used the numbering and headings set forth in the briefing outline approved in SOAH Order No. 13 and omitted those sections that Walmart does not address below.

I. INTRODUCTION/SUMMARY [PO Issues 1, 2, 3]

On October 13, 2020, Southwestern Electric Power Company (“SWEPCO” or “Company”) filed its application (“Application”) with the Public Utility Commission of Texas (“Commission”) seeking, among other things, authority to increase its base rates for its retail electric customers in Texas, to increase its return on equity (“ROE”), to change the Light and Power (“LP”) Secondary Schedule rate design, and to offer a Renewable Energy Credit (“REC”) Rider.

Walmart timely intervened in this matter. On March 31, 2021, Walmart filed the Direct Testimony and Exhibits of Lisa V. Perry, a Senior Manager, Energy Services at Walmart, which was admitted into evidence in this proceeding.¹

Walmart is a large commercial customer within the Company’s service territory with approximately 25 retail stores and related facilities, including Supercenters, Sam’s Clubs, and Neighborhood Markets that take electric service from the Company.² Collectively, these facilities consume over 65 million kWh of electricity on an annual basis. The majority of these facilities are served on the LP Secondary Schedule with some smaller facilities taking service from the General Service (“GS”) Schedule.³ Electricity is a significant operating cost for retailers such as Walmart. When electric rates increase, the increased cost to retailers can put pressure on consumer prices and on the other expenses required by a business to operate.

Walmart offers its recommendations herein to assist the Commission in its thorough and careful consideration of the Company’s Application and its impact on customers in examining the requested revenue requirement and ROE, in addition to all other facets of this case, to ensure that

¹ Walmart Ex. 1 (Perry Dir.).

² *Id.* at 2.

³ *Id.* at 2.

any increase in the Company's rates is the minimum amount necessary to provide safe, adequate, and reliable service, while also providing SWEPCO with the opportunity to recover its reasonable and prudent costs and earn a reasonable return on its investment.

III. Rate of Return [PO Issues 4, 5, 8, 9]

A. Overall Rate of Return, Return on Equity, Cost of Debt [PO Issue 8]

1. Return on Equity

The Company is seeking an annual Texas jurisdictional revenue increase of approximately \$105 million, with a net proposed increase of approximate \$90 million after the TCRF and DCRF are re-set to zero.⁴ The Company's proposal would result in a 30.31 percent base rate increase, or a 15.57 percent increase in total revenue after considering both fuel and non-fuel revenues.⁵ This proposed increase is based on a 12-month historical test year ending March 31, 2020.⁶

In his Rebuttal Testimony, SWEPCO's expert witness, Dylan W. D'Ascendis updated his ROE analyses using data as of March 31, 2021, to purportedly account for the fluid market conditions resulting from COVID-19 pandemic.⁷ However, Mr. D'Ascendis also states that the update was due to the passage of time since his Direct Testimony analysis.⁸ SWEPCO continues to propose an ROE of 10.35 percent,⁹ which is an increase of 75 basis points over its currently authorized ROE of 9.60 percent.¹⁰ Mr. D'Ascendis supports this ROE based on a range of 10.14 percent to 10.97 percent with an upward adjustment of 20 basis points to this range based on what he describes as a "size adjustment" and 9 basis points as a "credit risk adjustment."¹¹ With

⁴ SWEPCO Ex. 3 (Smoak Dir.) at 7-8.

⁵ *See id.*

⁶ SWEPCO Ex. 6 (Baird Dir.) at 17.

⁷ SWEPCO Ex. 38 (D'Ascendis Reb.) at 6.

⁸ *Id.* at 8.

⁹ *Id.* at 9.

¹⁰ Walmart Ex. 1 (Perry Dir.) at 7.

¹¹ SWEPCO Ex. 38 (D'Ascendis Reb.) at 9, Table 1: Updated Cost of Common Equity Results.

these adjustments, the proposed ROE is based on a range of 10.43 percent to 11.26 percent.¹² In addition, the Company proposes a capital structure of 50.63 percent debt and 49.37 percent equity, which is its actual capital structure as of March 31, 2020.¹³ Applying the Company's proposed ROE to its proposed capital structure, the Company is asking the Commission to approve a Rate of Return equal to 7.22 percent based on the weighted average cost of capital ("WACC").¹⁴

The Company's proposed ROE is excessive when considering the significant customer impact. Additionally, there is no reliable evidence to support SWEPCO's proposed ROE of 10.35 percent in this proceeding. The fact that the other witnesses presenting testimony on SWEPCO's cost of equity and ROE have such widely different cost of equity results from the Company's witness, but overlap among themselves, further suggests that Company witness D'Ascendis' analysis is inflated and should be rejected. Moreover, the overinflated nature of SWEPCO's ROE is evident compared to broader industry trends relating to ROE. The Company has failed to sufficiently and substantially demonstrate that it requires an ROE greater than its currently approved ROE of 9.6 percent. As such, the Commission should approve an ROE in this case no higher than the current 9.6 percent.

a. SWEPCO's proposed increase in ROE from 9.60 percent to 10.35 percent would have a significant customer impact.

Using the Company's proposed rate base, cost of debt, and capital structure, the impact of the proposed increase in authorized ROE for Texas retail customers is approximately \$9.7 million, or 10.77 percent of the proposed net revenue requirement increase.¹⁵ By approving an ROE no greater than the current 9.60 percent, the Company's requested revenue requirement increase could be reduced by approximately 10.77 percent, at a minimum.

¹² *Id.*

¹³ SWEPCO Ex. 8 (D'Ascendis Dir.) at 21.

¹⁴ *Id.* at 5.

¹⁵ Walmart Ex. 1 (Perry Dir.) at Exhibit LVP-2.

b. SWEPCO's proposed ROE is significantly higher than all other witnesses presenting testimony on ROE.

Other parties also presented testimony regarding SWEPCO's cost of equity and the proper ROE to be awarded. The Cities Advocating Reasonable Deregulation ("CARD") witness Dr. J. Randall Woolridge calculated SWEPCO's cost of equity to be in the range 7.60 percent and 9.15 percent and recommended an ROE of 9.00 percent.¹⁶ The Texas Industrial Energy Consumers' ("TIEC") witness Michael P. Gorman calculated SWEPCO's cost of equity to be in the range 8.90 percent and 9.35 percent and recommended an ROE of 9.15 percent.¹⁷ The Staff of the Public Utility Commission of Texas ("Staff") witness Mark Filarowicz calculated SWEPCO's cost of equity to be in the range of 9.05 percent to 9.35 percent and recommended an ROE of 9.225 percent.¹⁸ The cost of equity ranges proposed by these witnesses overlap significantly. The outlier is the Company's witness. The correlation among CARD, TIEC, and Staff witnesses is simply further evidence that SWEPCO's proposed cost of equity and ROE are not reasonable and should be rejected.

c. SWEPCO's proposed ROE is significantly higher than the ROEs approved by the Commission from 2017 to Present.

Since 2017, this Commission has issued orders with stated ROEs in seven cases for investor owned utilities with the average of the ROEs approved equal to 9.56 percent.¹⁹ Specifically, the Commission issued Orders with stated ROEs in the following cases: (1) Docket No. 49831, the Southwestern Public Service Co. rate case that was completed in 2020, in which the Commission approved an ROE of 9.45 percent;²⁰ (2) Docket No. 49494, the AEP Texas Inc. rate case that was completed in 2020, in which the Commission approved an ROE of 9.40 percent;²¹ (3) Docket No.

¹⁶ CARD Ex. 4 (Woolridge Dir.) at 54.

¹⁷ TIEC Ex. 1 (Gorman Dir.) at 54 and 60.

¹⁸ Staff Ex. 1 (Filarowicz Dir.) at 7.

¹⁹ Walmart Ex. 1 (Perry Dir.) at Exhibit LVP-3.

²⁰ *Id.* at 9 citing *Application of Southwestern Public Service Company for Authority to Change Rates*, Docket No. 49834, Order (issued August 27, 2020), p. 19.

²¹ *Id.* citing *Application of AEP Texas Inc. for Authority to Change Rates*, Docket No. 49494, Order (issued April 3, 2020), p. 26.

49421, the CenterPoint Energy rate case that was completed in 2020, in which the Commission approved an ROE of 9.40 percent;²² (4) Docket No. 48401, the Texas-New Mexico Power Co. rate case that was completed in 2018, in which the Commission approved an ROE of 9.65 percent;²³ (5) Docket No. 46449, the Southwestern Electric Power Co. rate case that was completed in 2017, in which the Commission approved an ROE of 9.60 percent;²⁴ (6) Docket No. 46831, the El Paso Electric Co. rate case that was completed in 2017, in which the Commission approved an ROE of 9.65 percent;²⁵ (7) Docket No. 46957, the Oncor Electric Delivery Co. rate case that was completed in 2017, in which the Commission approved an ROE of 9.80 percent.²⁶ As such, the Company's proposed 10.35 percent ROE is counter to recent Commission actions regarding ROEs for other investor-owned electric utilities in Texas.

d. SWEPCO's proposed ROE is significantly higher than the ROEs approved by the Commission from 2017 to Present.

While this Commission is not bound by decisions of other utility commissions, evidence of ROEs awarded by other jurisdictions provide the Commission with context for the ROE sought in this case by SWEPCO. Walmart witness Ms. Perry's testimony provided information regarding ROEs awarded nationally since 2017 as evidence that SWEPCO's ROE request in this proceeding is counter to broader industry trends. That data demonstrates that out of the 156 reported utility rate case ROEs authorized by state regulatory commissions to investor-owned electric utilities from 2017 through approximately March 2021, the average and median ROE was 9.56 percent.²⁷ When that data is limited to vertically integrated utilities, like SWEPCO, the average authorized

²² *Id. citing Application of CenterPoint Energy Houston Electric, LLC for Authority to Change Rates*, Docket No. 49421, Order (issued March 9, 2020), p. 21.

²³ *Id. citing Application of Texas-New Mexico Power Company to Change Rates*, Docket No. 48401, Order (issued December 20, 2018), p. 17.

²⁴ *Id. citing Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 46449, Order on Rehearing (issued March 19, 2018), p. 31.

²⁵ *Id. citing Application of El Paso Electric Company to Change Rates*, Docket No. 46831, Order (issued December 18, 2017), p. 5.

²⁶ *Id. at 10 citing Application of Oncor Electric Delivery Company LLC for Authority to Change Rates*, Docket No. 46957, Order (issued October 13, 2017), p. 7.

²⁷ *Id. at 10 and Exhibit LVP-3.*

ROE from 2017 through approximately March 2021 is 9.69 percent.²⁸ The average ROE authorized for vertically integrated utilities was 9.80 percent in 2017; 9.68 percent in 2018; 9.73 percent in 2019; 9.55 percent in 2020; and 9.30 percent for the first three months approximately of 2021.²⁹ If approved by the Commission, SWEPCO's proposed 10.35 percent ROE would equal the second highest ROE awarded for a vertically integrated utility anywhere in the country since 2018.³⁰ The Company's risk profile simply does not support such a high ROE. There is no evidence before this Commission that SWEPCO is operating at such a high level of risk that a 10.35 percent ROE is either necessary or appropriate.

VI. Functionalization and Cost Allocation [PO Issues 4, 5, 52, 53, 55, 56, 57, 58]

B. Class Allocation [PO Issues 53, 58]

Revenue allocation is the assignment of the revenue responsibility to each customer class in proportion to the costs incurred by the utility to serve each class, considering policy objectives, advancing the public interest, or other rate design goals, as necessary. A revenue allocation that assigns revenue to each class at its cost of service is free of inter-class subsidies. To the extent possible, inter-class subsidies should be eliminated through a revenue allocation that reflects the cost of service. Walmart advocates that rates be set based on the utility's cost of service for each rate class. Such assignment of revenues produces equitable rates that reflect cost causation, send proper price signals, and minimize price distortions.

The Company's proposed revenue allocation brings each customer group to cost-based levels and moves most individual customer classes closer to cost of service.³¹ The Company's proposed revenue allocation moves closer toward a cost-based class revenue requirement, while purporting to moderate impacts to customer bills.³² At the Company's proposed revenue requirement, Walmart does not oppose the Company's proposed revenue allocation. However, if

²⁸ *Id.* at 11 and Exhibit LVP-3.

²⁹ *Id.*

³⁰ *Id.*

³¹ SWEPCO Ex. 58 (Jackson Reb.) at Exhibit JLJ-1R.

³² SWEPCO Ex. 32 (Jackson Dir.) at 30.

the Commission approves a revenue requirement lower than that proposed by the Company, Walmart recommends that the Commission use the reduction from proposed revenue requirement to move the customer classes closer to their respective costs of service while ensuring that no class receives an increase larger than that proposed by the Company.

VII. Revenue Distribution and Rate Design [PO Issues 4, 5, 47, 48, 52, 59, 60, 61, 62, 75, 76, 77, 78, 79]

B. Rate Design and Tariff Changes [PO Issues 60, 61, 62]

The Company proposes changes to the current LP Secondary Schedule rate design that move away from the cost of service by collecting demand charges through an energy charge. Costs should be collected in a manner that reflects how they are incurred. Collecting fixed demand-related costs through energy charges violates cost causation principles and creates a subsidy for lower load factor customers. The Commission should reject the Company's proposed rate changes to the current LP Secondary Schedule rate design. Instead, the Commission should approve a rate design for the LP Secondary Schedule that moves closer to cost-based rates.

The LP Secondary Rate is a multi-part rate for large customers that includes a \$/kW demand charge, a \$/kWh energy charge, and charges for additional transformer capacity and reactive power (per kVARh). Although the LP Secondary Rate does not include a customer charge, it does contain a minimum bill provision. The Company proposes the rate changes shown below.

SWEPCO Proposed Rate Changes for LP Secondary Customers³³

Rate	Present	Proposed	Percent Change
kWh Charge	\$0.016155/kWh	\$0.022038/kWh	26.69%
kW Charge	\$9.38/kW	\$12.48/kW	33.05%

³³ Walmart Ex. 1 (Perry Dir.) at 20 (Table 2) citing Schedule Q-7, p. 9.

The Company's cost of service study results and the structure of the current and proposed LP Secondary rates show that LP rates are moving further away from cost of service and will continue to over-collect the Company's fixed costs through the energy charge.

Comparison by Function of SWEPCO Cost of Service Results (Proposed Unit Cost) and Base Rate Revenue Recovery of Proposed Light and Power Secondary Rates³⁴

Function	COSS Results	Current LP Secondary Rates	Proposed LP Secondary Rates
Energy (kWh)	9.3%	34.9%	35.8%
Demand (kW)	89.4%	65.1%	64.1%
(incl. Min. Charge)			
Customer	1.3%	0.0%	0.0%

As shown above, 89.4 percent of the costs to serve LP Secondary customers are demand related. Yet, the Company's current rates recover only 65.1 percent of base rate revenues through the demand charge, minimum charge, and other demand cost related charges. The Company's proposed LP Secondary rates will move further away from a cost-based rate design by collecting only 64.1 percent of the revenue requirement through demand-related charges. Additionally, under the Company's proposal, 35.8 percent of revenues would be recovered through the energy charge even though only 9.3 percent of LP Secondary costs are incurred on an energy basis.

The Company's proposed change in demand related costs from per kW demand charges to per kWh energy charges results in a shift in demand cost responsibility from lower load factor customers to higher load factor customers. This shift results in a misallocation of cost responsibility as higher load factor customers overpay for the demand related costs incurred by the Company to serve them. In other words, higher load factor customers are paying for a portion of the demand related costs that are incurred to serve lower load factor customers simply because of the manner in which the Company collects those costs in rates.

³⁴ *Id.* at 21 (Table 3) and Exhibit LVP-5.

The Commission's rate design goals should include the removal of subsidies. To accomplish that goal, Walmart recommends assigning the majority of the LP class increase to the demand component of the rate schedule. The Company's response to Walmart's recommendation is that there is a concern that the change would negatively impact lower load factor customers in favor of higher load factor customers,³⁵ which ignores the fact that (1) the Company's proposal violates cost causation principles and (2) higher load factor customers are currently negatively affected and will be even more so under the Company's proposal. Accordingly, Walmart recommends that the Commission reject the Company's proposed rate changes to the current LP Secondary Schedule rate design in favor of a rate design that moves closer to cost-based rates. Specifically, the Commission should apportion any increase to LP Secondary as follows:

- (1) Assign 9.3 percent of the increase – equal to the percent of LP Secondary costs that are energy-related – to the kWh charge revenue requirement;
- (2) Maintain the Company's proposed changes to the minimum charge revenue requirement and the additional transformer and kVAR charges; and
- (3) Apply the remaining revenue requirement increase to the kW charge.

D. Riders [PO Issues 47, 48, 75, 76, 77, 78, 79]

2. Renewable Energy Credit Rider [PO Issues 47, 48]

The Company is proposing a Renewable Energy Credit ("REC") Rider, which is a new voluntary rider that allows customers to purchase RECs produced from the Company's "investment in renewable energy resources."³⁶ Walmart has long had aggressive company-wide renewable energy goals, including significant targets, as follows: (1) to be supplied 100 percent by renewable energy by 2035 and (2) zero carbon emissions in operations, including transportation fleet vehicles, without the use of offsets, by 2040.³⁷ Walmart welcomes the opportunity to purchase RECs through utility tariffs, specifically ones attributable to newly developed utility-owned resources, as opposed to resources currently in rates or unbundled RECs procured from market

³⁵ SWEPCO Ex. 58 (Jackson Reb.) at 11.

³⁶ SWEPCO Ex. 32 (Jackson Dir.) at 30.

³⁷ Walmart Ex. 1 (Perry Dir.) at 24.

sources, to aid in its efforts to reach its renewable energy goals. The tariff sheet for the proposed REC Rider describes the RECs as being “derived from SWEPCO’s procurement of renewable energy resources.”³⁸ While SWEPCO emphasizes that the proposed REC rider will enable customers to meet personal or corporate environmental and sustainability goals by purchasing the environmental attributes of renewable energy resources, it fails provide crucial information necessary to allow the customer to link the REC to a specific renewable resource.³⁹ For Walmart and other customers with aggressive renewable energy goals, it is important that the Company show the customer is receiving energy from new and *specific* renewable resources to meet those goals. As such, Walmart recommends that the REC Rider provide customers with an opportunity to purchase RECs that the customer can link to the underlying resource creating such REC(s).

XI. CONCLUSION

WHEREFORE, for the foregoing reasons, Walmart Inc. respectfully requests that the Commission approve the recommendations included herein.

Dated this 17th day of June, 2021.

Respectfully submitted,

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³⁸ SWEPCO Ex. 32 (Jackson Dir.) at Exhibit JLJ-6, p. 1.

³⁹ *Id.* at 31.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Walmart Inc.'s Initial Post-Hearing Brief** was served on all parties of record in this proceeding on the 17th day of June, 2021, by e-service or electronic mail pursuant to Docket No. 50664, Order Suspending Rules (March 16, 2020).

/s/ Julie A. Clark

Julie A. Clark